

LAW OFFICES OF DALE K. GALIPO
Dale K. Galipo, SBN 144074 (*lead counsel*)
dalekgalipo@yahoo.com
Marcel F. Sincich (SBN 319508)
msincich@galipolaw.com
21800 Burbank Boulevard, Suite 310
Woodland Hills, California 91367
Tel: (818) 347-3333
Fax: (818) 347-4118

THE SEHAT LAW FIRM, PLC
Cameron Sehat, Esq. (SBN 256535)
cameron@sethatlaw.com
5100 Campus Dr., Suite 200
Newport Beach, CA 92660
Tel: (949) 825-5200
Fax: (949) 313-5001

Attorneys for Plaintiff
MARIBEL MURILLO

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

MARIBEL MURILLO, individually
and as successor-in-interest of the
estate of deceased, JONATHAN
MURILLO-NIX,

Plaintiff,

vs.

CITY OF LOS ANGELES, a
governmental entity; JESUS
MARTINEZ, individually; KYLE
GRIFFIN, individually; and DOES 1-
10, inclusive,

Defendants.

Case No.: 2:22-cv-03188 DMG (SKx)

[*Honorable Dolly M. Gee*]
Magistrate Judge Steve Kim

**NOTICE OF LOCAL RULE 79-
5.2.2(b) EX PARTE APPLICATION
AND EX PARTE APPLICATION
FOR AN ORDER DENYING
LEAVE TO FILE UNDER SEAL
EXHIBITS IN SUPPORT OF
PLAINTIFF'S OPPOSITION TO
DEFENDANTS' MOTIONS FOR
SUMMARY JUDGMENT AND TO
ORDER THAT EXHIBITS MAY BE
FILED REGULARLY**

[LOCAL RULE 79-5.2.2(b)]

[Declaration of Marcel F. Sincich,
Notice of Manuel Filing, and
[Proposed] Order filed concurrently
herewith]

MSJ Date: December 15, 2023
Time: 9:30 a.m.
Judge: Hon. Dolly M. Gee
Courtroom 8C, 8th Floor

1 **TO THIS HONORABLE COURT AND TO ALL PARTIES AND**
 2 **THEIR ATTORNEYS OF RECORD:**

3 PLEASE TAKE NOTICE that Plaintiff MARIBEL MURILLO, through
 4 Plaintiff's counsel Marcel F. Sincich of the Law Offices of Dale K. Galipo, will and
 5 hereby does seek and order from this Court denying leave to file, under seal,
 6 Plaintiff's Exhibits attached to the Declaration of Marcel F. Sincich in support of
 7 Plaintiff's Opposition to Defendants Motions for Summary Judgment, and for an
 8 order granting Plaintiff leave to file said exhibits regularly.

9 This is a civil rights police shooting-death case. Defendant City of Los
 10 Angeles marked documents that it produced during discovery as "Confidential." As
 11 such, they are governed by the operative Protective Order in this case (Doc. 35),
 12 which is intended to shield these documents from public view. In order to comply
 13 with the Protective Order, Plaintiff hereby makes this request for the Court to
 14 consider whether the following documents shall be filed under seal: (1) the first
 15 Statement of Defendant Officer Kyle Griffin; (2) the second Statement of Defendant
 16 Officer Kyle Griffin; (3) the first Statement of Defendant Officer Jesus Martinez; (4)
 17 the second Statement of Defendant Officer Jesus Martinez; (5) the Statement of
 18 involved Sgt. Francisco Alferez; (6) the Statement of involved Officer Nicholas
 19 Knolls; (7) the Statement of involved Officer Eric Schlesinger; (8) the Statement of
 20 involved Officer Daniel Frazer; (9) the Statement of involved Officer Georgiy
 21 Tykhomyrov; (10) the Statement of involved Officer Joshua Carlos; (11) the
 22 Statement of involved Officer Luis Lopez; (12) the Statement of involved Officer
 23 Marcos Gutierrez; (13) the Statement of involved Officer Sabrina Martinez; (14) the
 24 Statement of involved Officer Michael Proni; (15) the Statement of involved Officer
 25 Eduardo Piche; (16) the Autopsy Report of Decedent Murillo; (17) the Los Angeles
 26 Force Investigation Division Report; (18) photographs of officer weapons; and (19)
 27 scene photographs.

1 The above list of documents is cited in Plaintiff's Opposition to Defendants'
2 Motions for Summary Judgment and are necessary to this Court's summary
3 judgment ruling.

4
5 Respectfully submitted,

6 Date: November 22, 2023

LAW OFFICES OF DALE K. GALIPO

7
8 */s Marcel F. Sincich*

9 Dale K. Galipo

Marcel F. Sincich

10 *Attorneys for Plaintiff*
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APPLICATION TO FILE UNDER SEAL

Pursuant to L.R. 79-5.2.2(b), Plaintiff MARIBEL MURILLO, individually and as successors in interest to Decedent JONATHAN MURILLO-NIX, hereby respectfully submit her application to file under seal the following documents, attached as exhibits to the Declaration of Marcel F. Sincich in Support of Plaintiff's Opposition to Defendants' Motions for Summary Judgment: (1) the first Statement of Defendant Officer Kyle Griffin; (2) the second Statement of Defendant Officer Kyle Griffin; (3) the first Statement of Defendant Officer Jesus Martinez; (4) the second Statement of Defendant Officer Jesus Martinez; (5) the Statement of involved Sgt. Francisco Alferez; (6) the Statement of involved Officer Nicholas Knolls; (7) the Statement of involved Officer Eric Schlesinger; (8) the Statement of involved Officer Daniel Frazer; (9) the Statement of involved Officer Georgiy Tykhomyrov; (10) the Statement of involved Officer Joshua Carlos; (11) the Statement of involved Officer Luis Lopez; (12) the Statement of involved Officer Marcos Gutierrez; (13) the Statement of involved Officer Sabrina Martinez; (14) the Statement of involved Officer Michael Proni; (15) the Statement of involved Officer Eduardo Piche; (16) the Autopsy Report of Decedent Murillo; (17) the Los Angeles Force Investigation Division Report; (18) photographs of officer weapons; and (19) scene photographs.

The basis for seeking this request is that documents subject to the Protective Order are necessary to Plaintiff's Opposition to Defendants' Motions for Summary Judgment (Doc. 44), which was filed on November 3, 2023. Plaintiff's Oppositions are due on November 24, 2023 as 21 days prior to the hearing but will be filed on November 22, 2023, due to the court's holiday schedule.

These documents have been designated by Defendants and the Los Angeles District Attorney's Office as confidential pursuant to the protective order entered by Magistrate Judge Steve Kim on June 9, 2023 (Doc. 35). Defendants and LADA designated these documents as "Confidential Pursuant to Protective Order."

Local Rule 7-19 Compliance

Prior to filing this *ex parte* application, Plaintiff's counsel contacted Defense counsel, in compliance with Local Rule 7-19 through 7-19.1. (See Sincich Decl. ¶¶ 2-4.

Defense counsel are:

Kevin E. Gilbert, Esq. (SBN: 209236)

kgilbert@ohhlegal.com

Carolyn M. Aguilar, Esq. (SBN: 289550)

caguilar@ohhlegal.com

ORBACH HUFF + HENDERSON LLP

6200 Stoneridge Mall Road, Suite 225

Pleasanton, California 94588

Telephone: (510) 999-7908

Facsimile: (510) 999-7918

Attorneys for Defendants

OFFICER JESUS MARTINEZ and OFFICER KYLE GRIFFIN

HYDEE FELDSTEIN SOTO, City Attorney

DENISE C. MILLS, Chief Deputy City Attorney (SBN 191992)

SCOTT MARCUS, Chief Assistant City Attorney (SBN 184980)

CORY M. BRENT, Senior Assistant City Attorney (SBN 115453)

CHRISTIAN R. BOJORQUEZ, Deputy City Attorney (SBN 192872)

200 N. Main Street, 6th Floor, City Hall East

Los Angeles, California 90012

Tel: (213) 978-7023; Fax: (213) 978-8785

Email: christian.bojorquez@lacity.org

Attorneys for Defendant CITY OF LOS ANGELES

1 Counsel for the Los Angeles District Attorney's Office:

2 Tomas A. Guterres

3 COLLINS + COLLINS, LLP

4 T: 626-243-1100

5 790 E. Colorado Boulevard, Suite 600

6 Pasadena, CA 91101

7 tguterres@ccllp.law

8 In advance of Plaintiff's Application, counsel for Plaintiff and counsel for the
9 LADA, and Defendants Martinez and Griffin (on behalf of the "joint Defendants")
10 corresponded regarding Plaintiff's intention to file several exhibits that are subject
11 to the Protective Order. Attorneys for the City of Los Angeles did not respond
12 directly. Plaintiff's counsel requested from Defendants' counsel an agreement to lift
13 the confidential designation, and if not, what specific information requires secrecy
14 so that the parties can discuss redaction. Sincich Decl. ¶2.

15 Counsel for the LADA deferred the designation to the City as the documents
16 in question are City documents involving LAPD officers. Presumably because of
17 this Court's Order previously ruling that videos of the incident should be filed
18 regularly and not under seal (Doc. 47), Defendants agreed that videos do not need to
19 be filed under seal. However, Defendants' position is that involved officer
20 statements, the FID Report, the autopsy report, and evidence photographs "need to
21 be filed under seal since they contain confidential and privileged information –
22 including implicating the privacy rights of third parties." Plaintiff's counsel
23 responded specifying exactly which photographs and which officer statements are of
24 issue and requested a list of all information within that contains confidential or
25 privileged information so that the parties can discuss redaction. Defense counsel
26 replied that the "officer statements, FID and Autopsy reports are all confidential and
27 need to remain sealed, especially as they implicate third-party privacy rights and
28 also include confidential personnel information related to officers that did not use

1 lethal force.” Defense counsel did not provide a single citation of confidential of
2 privileged information not related to the use of force for Plaintiff’s counsel to redact.
3 It is Plaintiff’s understanding that Defendants will oppose this Application given
4 that Plaintiff requests these documents to be filed regularly. Sincich Decl. ¶3.

5 Plaintiff files this application pursuant to L.R. 79-5.2.2(b) on an *ex parte* basis
6 because these exhibits are necessary to Plaintiff’s Opposition to Defendants’
7 Motions for Summary Judgment, and by the time Plaintiff received Defendants’
8 Motion and determined what exhibits to use in opposition, there was insufficient
9 time in advance of the November 24, 2023 opposition due date or December 15,
10 2023 summary judgment hearing for this application to be heard as a regularly
11 noticed motion. *Id.* at ¶4.

12 Plaintiff’s counsel provided defense counsel with a copy of the Declaration of
13 Marcel F. Sincich pursuant to L.R. 79-5.2.2(b). *See* Sincich Decl. at ¶11.

14 Plaintiff contends that these statements of the involved officers, the City
15 investigatory report, the autopsy report, and photographs are all directly relate to this
16 civil right officer-involved shooting death case and necessary to oppose dispositive
17 motions. Plaintiff contends that these documents are not confidential, are not
18 privileged (to which Defendants have any standing to assert), and that nothing in
19 these documents require secrecy from the public on these public issues. Further,
20 these documents should not be hidden from the public because they establish the
21 disputed issues of material fact that preclude Defendants from summary judgment.

22 For the reasons set forth in the Declaration of Marcel F. Sincich in Support of
23 Application for Leave to File Under Seal Exhibits in Opposition to Defendants’
24 Motion for Summary Judgment, filed concurrently herewith, **Plaintiff respectfully**
25 **request that this Court DENY any request to file said exhibits under seal, and**
26 **order that these documents be filed regularly through the Court’s CM/ECF**
27 **system.**

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Respectfully submitted,

Date: November 22, 2023

LAW OFFICES OF DALE K. GALIPO

/s Marcel F. Sincich

Dale K. Galipo
Marcel F. Sincich
Attorneys for Plaintiffs